

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PAUL SAMUEL JOHNSON,

Plaintiff,

No. CIV S-11-0938 GGH P

vs.

FONG, et al.,

Defendants.

ORDER

_____/

Plaintiff, a state prisoner proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. § 1983, together with a request to proceed in forma pauperis. In light of 1996 amendments to 28 U.S.C. § 1915, this court will not rule on plaintiff's request to proceed in forma pauperis.

The federal venue statute requires that a civil action, other than one based on diversity jurisdiction, be brought only in "(1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought." 28 U.S.C. § 1391(b).

////

1 In this case, with the exception of one nominal defendant, none of the defendants
2 reside in this district. The claim arose in Marin County, which is in the Northern District of
3 California. Therefore, plaintiff's claim should have been filed in the United States District Court
4 for the Northern District of California. In the interest of justice, a federal court may transfer a
5 complaint filed in the wrong district to the correct district. See 28 U.S.C. § 1406(a); Starnes v.
6 McGuire, 512 F.2d 918, 932 (D.C. Cir. 1974).

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. This court has not ruled on plaintiff's request to proceed in forma pauperis; and
9 2. This matter is transferred to the United States District Court for the Northern
10 District of California.

11 DATED: April 22, 2011

12 /s/ Gregory G. Hollows
13

14 GREGORY G. HOLLOWS
UNITED STATES MAGISTRATE JUDGE

15 GGH:md
16 john0938.21
17
18
19
20
21
22
23
24
25
26